



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

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DENVER, COLORADO 80202-2466

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4 November 1992

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Ref: SRC

Robert Goodwin
General Counsel
EG&G Rocky Flats, Inc.
P.O. Box 464
Golden, CO 80402-0464

Re: Compliance Order (Docket No. CAA-113-91-08)

Dear Mr. Goodwin:

I am writing to recommend that EG&G Rocky Flats, Inc. (EG&G) meet with the U.S. Environmental Protection Agency, Region VIII (EPA) at your earliest convenience to discuss the terms of settlement of a civil action which EPA proposes to bring against EG&G for violations of the Clean Air Act (the Act) and the National Emission Standard for Hazardous Air Pollutants for Radionuclides (Radionuclide NESHP), 40 C.F.R. Part 61 Subpart H.

On March 3, 1992, EPA issued the above-referenced compliance order to EG&G. The order requires EG&G to comply with the Radionuclide NESHP at the Rocky Flats Plant. In particular, the order requires EG&G to achieve compliance with the effluent monitoring requirements of 40 C.F.R. Section 61.93(b), to complete four projects in order to evaluate the existing radionuclide monitoring systems and make necessary modifications to bring them into compliance, and to submit monthly progress reports (later amended to quarterly progress reports).

After the order was issued, on March 16, a meeting was held with technical and legal staffs of EG&G, U.S. Department of Energy (DOE), and EPA. At the meeting, we discussed the likelihood that EG&G would not be able to comply with the order within one year; because of the scope and costs of the study projects, William Osborne of EG&G estimated that the projects would not be completed nor compliance achieved for three or four years.

Section 113(a)(4) of the Clean Air Act (42 U.S.C. Section 7413(a)(4)) provides that an order issued under that section shall require compliance with Clean Air Act requirements "as expeditiously as practicable, but in no event longer than one year after the date the order was issued, and shall be

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nonrenewable." Since the order issued to EG&G cannot be extended beyond the one year deadline for compliance (March 3, 1993), EPA intends to take additional enforcement action to assure that compliance will occur as expeditiously as practicable.

EPA believes that the most effective means to assure compliance is to file an action against EG&G under Section 113(b) of the Clean Air Act and enter into a consent decree with your company. The consent decree would not necessarily require penalties for past violations, but would establish an enforceable compliance schedule with stipulated penalties for failure to achieve milestones of the schedule. At our meeting last March, we discussed this option with EG&G and DOE.

Since the order was issued, several issues have arisen which must be addressed and resolved under the terms of the consent decree. First, EPA has determined that diffuse and fugitive radionuclide emissions from DOE facilities regulated under 40 C.F.R. Part 61, Subpart H, must be measured or at least estimated for calculating effective dose equivalent and determining compliance with the NESHAP standard. In its Calendar Year 1991 Radionuclide Air Emissions Annual Report, Section IV ("Supplemental Information"), EG&G made an initial effort to estimate emissions from one source of diffuse or fugitive radionuclide emissions, the 903 Pad area.

In addition to the 903 Pad area, other areas of diffuse and fugitive emissions have been identified by an EPA contractor. These must be measured and included in the over-all calculation of effective dose equivalent. We refer you to the letter from Patricia D. Hull, Director of EPA's Air, Radiation and Toxics Division, to James Zane, Manager for EG&G, dated October 15, 1992.

Another issue is the construction or modification of radionuclide sources at the Rocky Flats Plant. Since the Rocky Flats plant is not in compliance with the Radionuclide NESHAP, the plant is not eligible for exemption from 40 C.F.R. Section 61.96. This section requires that EG&G apply for EPA approval, under Section 61.07, and provide EPA with notification of startup, under Section 61.09, for any modification of the facility.

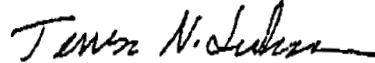
Various proposed changes at the Rocky Flats Plant may be modifications and thus require prior EPA approval before commencing construction or operation. These changes include, but are not limited to, reprocessing of pondcrete, construction of a wastewater treatment plant, and changes in plutonium processing upon restarting of processing operations.

Finally, EG&G's quarterly report, dated September 3, 1992, indicated that EG&G's laboratory is not operational and suggested that "if an alternative laboratory is not identified soon, project completion past the deadline may result." Based on this

statement, EPA is not satisfied that EG&G is making every effort to complete the projects on time.

We look forward to meeting with you and EG&G staff to discuss these issues and work out the terms of an acceptable consent decree. Since DOE has been involved in discussions involving compliance issues at the Rocky Flats Plant to date and since funding for continued compliance efforts apparently will require DOE approval, we are sending a copy of this letter to Mell Roy, DOE Environmental Counsel, and to Robert Nelson of DOE. We expect that EPA and DOE will negotiate a separate Federal Facilities Compliance Agreement under Executive Order 12088. To schedule a meeting, you may call me at 294-7195.

Very truly yours, .



Teresa N. Lukas
Assistant Regional Counsel

cc: Greg McKenna, Esq.
EG&G Legal Division

Mell Roy, Esq.
U.S. Department of Energy, Environmental Counsel

Robert Nelson
U.S. Department of Energy

Paul Frohardt, Acting Director
Colorado Air Pollution Control Division

Judy Tracy (OGC)

Sally Dalzell (OFFE)

Tad McCall (OE)